

Section VIII

Responsibility 6: Work Permits for Minors

VIII. Issuance of Work Permits for Minors

“Issuance of work permits for minors who reside in the District, pursuant to section 8 of An Act to regulate the employment of minors within the District of Columbia...” State Education Office Establishment Act of 2000, Section 6(b)(6).

A. Background

1. Introduction

The SEO Establishment Act of 2000 requires the SEO to conduct a study into the issuance of work permits for minors. The definition of this responsibility was modified in order to reflect the laws regulating the employment of minors. Furthermore, adjustments have been made and defined in this section in order to capture current practices related to the issuance of work permits. The following are the considerations that have been used in this study:

- “Section 8 of An Act...” is encoded in section 36-508 of Chapter 5, Employment of Minors in the D.C. Code. This section refers only to the Board of Education having the authority to issue work permits, and depends on the remaining sections of Chapter 5, which is considered to be the body of laws that regulates the employment of minors.
- “Work Permits” refers to all permits issued to minors to be employed, including work permits, theatrical work permits, and street badges.
- “Who reside in the District” does not correspond to the work permit jurisdictions established in law. The phrase should read, “who work in the District.”
- “Issuance” is only half of the work permit process, which includes the issuance of the permit and the monitoring of the employer.

Given these considerations, the SEO has framed this study on the following definition: the issuance and monitoring pertaining to work permits, theatrical permits, and street trade badges for minors who work in the District, pursuant to Chapter 5 of the D.C. Code to regulate the employment of minors within the District of Columbia.

This definition ensures that the legal and operational requirements of the issuance of work permits for minors would be accounted for in the study. Furthermore, based on this definition, the SEO would be able to propose reasonable options and a feasible recommendation.

2. Legislation

The Child Labor Amendments Act of 1976 regulates the employment of minors within the District of Columbia. Section 8 of Chapter 5 in the D.C. Code designates the Board of Education as the responsible party for issuing work permits, and prescribes the process and

requirements for the issuance of work permits. Section 8 does not describe a function that is independent nor does it exclusively regulate the employment of minors. An understanding of Chapter 5 is necessary for the purposes of this study.

Chapter 5 establishes four types of permits for minors:

Section 35-508 provides for work and vacation permits to be issued by the Board of Education to minors under the age of 18 who have met the application requirements.

These requirements describe the profile of the minor and the name of the employer. In addition, this section provides the method for issuing the permit and the manner in which the Board maintains records of all applicants. Section 35-511 provides for vacation permits for minors between the ages of 14 and 16 to work during summer recess and “during the school term at such time as the public schools are not in session....” Section 35-506 provides for theatrical work permits for minors paid for artistic performances. This section establishes criteria for acceptable performance arts, designates the parent, guardian, or agent as the applicant, sets requirements for work site, and limits the numbers of hours a minor is permitted to work. Section 35-515 provides street trade badges for minors, who are paid to package or circulate political or media information.

Since the enactment of the Child Labor Amendments Act of 1976, the Board has made three rulings changing the limitations of theatrical work permits and minors working where alcohol is purchased.

3. History

Under section 36-523 of Chapter 5 in the D.C. Code, the Board of Education has delegated the routine operations of the issuance of work permits and monitoring of employers to the D.C. Public Schools (DCPS). Since this relationship was established, DCPS has housed this function in a number of different offices generally responsible for student services. The central position designated to carry out the operation and monitoring corresponding to this function has been the child labor specialist. During these internal re-locations, the procedures for both issuing and monitoring work permits have remained unchanged.

The size of the staff has fluctuated. Prior to 1993, the central office was staffed by two child labor specialists, four clerks, and three or four trained clerks for seasonal increases. During this period, one staff member at each school was trained for year-round operations. In addition, during the summer, college students were also trained. Since 1990, the size of the staff and financial resources supporting the program have gradually decreased.

The clerical support and staff at the school sites were eliminated. The two child labor specialists decreased their monitoring activities and were also assigned non-work permit duties. Within the last four years, one of the child labor specialists retired. This vacancy has not been filled.

4. Current Status

Currently, the child labor specialist is located in the Office of Student Affairs in DCPS. This office is composed of three people: the acting director, a secretary, and one child labor specialist. The Office of Student Affairs requires that students and employers meet the requirements of the law. The law details the types of occupations and times of day that a minor can and cannot work. The office reviews the work permit applications to make certain the job meets the legal requirement. After the work permit is issued, the child labor specialist selects sites to visit to ensure that employers are following the law.

Student Affairs is routinely understaffed to meet the demands of the issuance of work permits and monitoring of student work sights due to the employment contracts. The acting director and the secretary are full-time employees, whereas the child labor specialist is employed as a teacher and has a teacher's annual leave schedule. Consequently, during the peak periods of work permit issuance -- holidays and summer break -- the office is severely understaffed.

Outside of issuing work permits, the Office of Student Affairs also is responsible for the following: collaborating between students and scholarship providers, administering contests and awards for K-12, overseeing the Student Government for K-12, expediting Special Projects, including issuing diplomas, issuing off-duty pay checks, managing metro bus and rail passes, and maintaining school enrollment records to verify student identities.

Currently, the Office of Youth Programs located in the Department of Employment Services (DOES) has a certification process for minors, but only for those minors whose jobs are provided by the Office of Youth Programs. However, once certified, these minors do not receive a work permit.

5. Issues Pending

- Prior to 1995 all minors working in the District of Columbia were required to obtain a work permit from the Board of Education. However, in recent years, minors hired through the Department of Employment Services (DOES) have not been required to obtain a work permit. Instead, these minors go through a certification process operated by the Office of Youth Programs in DOES. To date, there has been no official documentation provided to support the transfer of the legal authority from the Board to DOES.
- The remaining child labor specialist has intended to retire since January 2001. There is no other person dedicated to the issuance of work permits.
- There is no specific budget outlined for this function.

B. Description of Practices in Other States

This section provides a description of how the function is managed in other states, with the goal of identifying practices that may be most suitable for the District of Columbia. Questionnaires, summaries of state laws, and interviews were used to gather information about practices in Maryland, Virginia, and New York.

Maryland and Virginia were chosen because of their close proximity to the District of Columbia. Many residents of the District, Maryland, and Virginia work in one of the other jurisdictions. Giving consideration to these states' policies regarding work permits for minors may provide insights into where a district office should be located to interface with work permit offices in Maryland and Virginia.

New York was chosen because it has one of the highest concentrations of non-resident working minors within its jurisdiction. This can be used as a comparison to the seasonal and irregular out-of-state film, theater, and government work that occurs in the District.

Maryland

In Maryland, the Commissioner of the State Department of Labor Licensing and Regulation – Division of Labor and Industry is the primary officer responsible for the regulation of issuance of work permits for minors. The Commissioner's authorities include issuance and monitoring. However, due to state budget cuts, the Department no longer has the funds to investigate violations of the Labor and Employment Law. Instead, it has referred the investigation function to the U.S. Department of Labor. Due to this fact, the Department depends on the county school systems and the high schools.

Maryland code gives each county Superintendent the responsibility to issue work permits and designate issuing officers throughout the public school system. Each senior high school and junior high school has an issuing officer who issues work permits to minors between the ages of 14 and 18. The school sends a copy to the Division of Labor and Industry, which has the authority to revoke an issued work permit. At this time, funding for this responsibility is provided by the county school system due to the state budget cuts. Students are not charged for the work permits and so provide no funding.

Besides the Commissioner and the County School System, the Ocean City Police Department and the government agencies that sponsor summer jobs programs have the authority to issue work permits.

Virginia

In the Commonwealth of Virginia, the State Department of Labor Licensing and Regulation is responsible for the regulation of the issuance of work permits for minors.

As the head of the Department, the Commissioner is responsible for issuing work permits to minors under the age of 14 with special considerations, such as minors working in theatrical performances. The Department provides the materials and training to the LEAs. Within the Department, the Labor Law Division monitors employers and imposes penalties on

employers who violate the Child Labor Law. Investigations are coordinated with state and local law enforcement officers.

In each school system, the Superintendent selects career education specialists as issuing officers in each high school. These officers are located in public and some private schools. Under Virginia Code, each officer has the limited authority to investigate work permit applications. The career education specialists issue work permits for minors who are 14 and 15 years old. For minors who are 16 and 17 years old, a work permit is not required. However, an employer can request that a minor obtain an age certificate from the career education specialist. Students are not charged a fee for these services. Instead, state funds finance the regulation of the employment of minors.

New York

In New York State, the Education Commissioner of the New York State Education Department is responsible for the issuance of work permits (employment certificates) for minors. The Commissioner of Labor in the New York State Department of Labor is generally responsible for monitoring the employment of minors, including registering acceptable work development programs, such as the School-to-Work Apprenticeship Program. The Department of Labor has eight local offices throughout the state.

However, the monitoring function is not exclusively the responsibility of the Department of Labor. Within the State Education Department, the Comprehensive Health and Pupil Services (CHAPS) routinely conducts monitoring functions. In the case of employment agencies, the law gives the New York City Department of Consumer Affairs the authority to enforce the Employment Agency Law. In both cases, however, it is still the Department of Labor that enacts the penalties.

The Education Commissioner delegates the authority to issue work permits to the Superintendent of Schools and the Chancellor in New York City. Superintendents and the Chancellor may designate a Principal or another public school official to issue work permits to students between 14 and 17. New York law makes special age provisions for employment in artistic performances, bridge tournaments, and agriculture. Furthermore, New York school attendance laws require a minor over the age of 16 to be either enrolled in school or employed full-time. Those minors, age 16, who choose to work full-time must obtain a full-time employment certificate from their principal or school official. These procedures are provided for by state funds included in the Governor's annual budget for each School District. There are no fees to employers or to students for these services.

C. Statement of Options

The following options have been developed based on the information gathered during this study. A discussion of each option and the advantages and disadvantages of each one are presented. Specific attention has been given to a principle raised in interviews and during the stakeholders' meeting that the minor should be developed as an entire student instead of

as an economic resource. This principle appears to be reflected in the laws of the states surveyed.

Option One: The SEO would not assume responsibility for the issuance of work permits for minors.

Discussion: Under the authority of the Board of Education, DCPS would continue to house the issuance and monitoring of the employment of minors working in the District of Columbia. A new child labor specialist and staff would have to be trained and hired.

Advantages:

- Academics would continue to be the first priority of the issuing officers.
- School services that produce documents to be included in students' records would be housed in the same location.
- There would be no additional costs for transitions.

Disadvantages:

- DCPS operations and financial resources would continue to be burdened by the issuance of work permits, to the extent that additional financial resources would have to be allocated in order to ensure DCPS could efficiently monitor employers.
- There would continue to be duplication of services, with DCPS issuing work permits and DOES certifying its minors to work.
- During times of cyclical financial strains, the work permits function might be reduced, causing its staff to assume additional duties or be relieved. This could severely reduce the monitoring and investigation functions, potentially posing liabilities to employers and the District.
- The monitoring of employers does not clearly correspond to other DCPS functions.

Option Two: The SEO would assume responsibility for the Office of Work Permits and Child Labor Law.

Discussion: The SEO would be responsible for the issuance of work permits for minors, and the monitoring of the employment of minors. The child labor specialist would be relocated to the SEO. Financial resources would have to be designated in order for this transfer to occur and for this office to be created.

Advantages:

- DCPS would no longer be operationally nor financially burdened by this function.
- The Office of Child Labor would initially receive funds to improve the regulation of minors.

Disadvantages:

- There would continue to be duplication of services, with SEO issuing work permits and DOES certifying its minors to work.
- Conducting a function that is dissimilar to its current functions might hinder the SEO's operations.
- In the long term, this option could pose a financial strain on the SEO unless money was provided annually to fund this program.
- If financial strains were to occur, then work permits officers might assume other SEO responsibilities or duties. This could severely reduce the monitoring and investigation functions, potentially posing liabilities to employers and the District.
- Academics might not be the first priority of issuing officers, causing student academic performance to decrease.
- Services that produce documents to be included in students' records would be housed in separate locations.

Option Three: The Board of Education, DCPS, and SEO would share the responsibilities of issuing work permits and the regulation of the employment of minors.

Discussion: Under the authority of the Board of Education, DCPS would continue to issue work permits for DCPS students, while the SEO would issue work permits for non-DCPS students, including private school students and non-resident minors. The SEO would also be responsible for monitoring the employment of minors. This would require DCPS to report its work permit information to the SEO.

Advantages:

- The operational and financial burden would be shared.
- The SEO Office of Child Labor would initially receive funds to improve the regulation of the employment of minors.
- Academics would continue to be the first priority of the DCPS issuing officers.

- The DCPS Office of Work Permits and other school services that produce documents to be included in students' records would be housed in the same location.

Disadvantages:

- An increase in reporting requirements for both the SEO and DCPS, who would have to report to the Board, and DCPS, would have to report to the SEO.
- There would be three offices either issuing work permits or certifying minors to work, located in the SEO, DCPS, and DOES.
- The multiple lines of reporting would place a greater burden on the operational and financial resources of the SEO and DCPS than if either were fully responsible for this function.
- Minors and employers would not have a central contact regarding work permits for minors.
- During times of cyclical financial strains, the work permits function might be reduced, causing its staff to assume additional duties or be relieved. This could severely reduce the monitoring and investigation functions, potentially posing liabilities to employers and the District.
- The monitoring of employers does not clearly correspond to other DCPS and SEO functions.
- In the long term, this option could pose a financial strain on both the SEO and DCPS, unless money was provided annually to fund this program.
- The SEO or the DCPS office could potentially receive disproportional funds due to different government funding processes.

Option Four: The Department of Employment Services would be primarily responsible for the regulation of the employment of minors, with the Board of Education and the Superintendent of DCPS retaining specific responsibilities to ensure that students graduate.

Discussion: The Department of Employment Services would house the central office of work permits. DOES would also be responsible for monitoring the employment of minors, and would coordinate with DCPS to ensure that the safety and academic interest of the minor were retained. DOES and DCPS would coordinate any issuance of work permits through the junior or senior high schools.

Advantages:

- There would be no duplication of services between DOES and DCPS.
- An accountability structure would be created for the issuance of work permits.
- DCPS operations and financial resources would be less burdened.
- During times of cyclical financial strains, the work permits function, if it were to be reduced, would still have a central office with the capability of conducting investigations, reducing the chance for liabilities.
- DOES would be the central location where work permits were issued.
- The issuing officers would not be under the direct supervision of the principal and, therefore, would not be assigned school administrative responsibilities.

Disadvantages:

- School Services that produce documents to be included in student's records would not be housed in the same location.
- It would require inter-agency cooperation on an infrequent basis.
- Additional funds and staff would be required.
- Academics might not be the first priority of the issuing officers, causing student academic performance to decrease.

D. Recommendation and Rationale

Recommendation

The State Education Office recommends Option Four: the Department of Employment Services is responsible for the issuance of work permits for minors relating to the regulation of the employment of minors. This option ensures that the monitoring of employers, which is conducted by DOES for the youth employment certification process, would extend to the work permit process.

Rationale

There would also be an accountability structure to inspire and ensure that minors fulfilled academic requirements. In cases where the safety of the child was at risk, the Board of Education would still retain the authority to prohibit any work deemed as dangerous pursuant to Section 35-503 of the D.C. Code. Furthermore, to prevent the academic interest of the minor from being jeopardized, the Superintendent would continue to have the

authority to enforce Article II section (1)(c) of the Compulsory School Attendance Act (This section gives the Superintendent the authority to allow flexible school hours for minors who are employed, but in no case would a minor be excused entirely from regular attendance “to the extent that his or her timely graduation would be jeopardized or prevented.”). Furthermore, this option makes the District’s work permit process correspond more closely to Maryland and Virginia, which could encourage better collaboration across state borders.

The disadvantages of this program could be overcome through creative planning. Funding is the primary complication regarding the issuance of work permits for minors. In all cases, additional funding is required. Due to the fact that DOES currently has a certification process and staff committed to monitor employers, less funds would have to be allocated for the issuance of work permits located in DOES. Funding strategies should be considered in order to sustain the issuance of work permits for minors.

During the process of the study, two funding strategies were proposed. The first strategy was to connect the work permits process with the School-to-Careers program. This strategy satisfies the lack of academic officers in DOES, for the program connects academic obtainment to professional development. Also, this program would give DOES the ability to issue work permits from public and some private high schools. The potential for professional student employees might encourage the development of private-public partnerships. The second strategy suggested was to charge students for work permits.

In order to facilitate this transition two actions should occur: the child labor specialists should be transferred from DCPS to DOES to establish a new office, and a transition team should be composed of representatives from the Board of Education, DOES, DCPS, and the Child Labor Office. Attention might also be given to the School-to-Careers program for the distribution and professional development aspects it could provide to the work permits process.

E. Application of Decision Criteria

1. Consistency With the Vision and Mission of the SEO

The recommendation of this option is consistent with the SEO’s mission to provide statements from a neutral position to improve the quality of education in the District of Columbia.

2. Effect on the Transferring Agency

The Board of Education and DCPS would no longer be overburdened by the issuance of work permits for minors. Furthermore, the potential liabilities to the Board that exist due to the lack of personnel to monitor employers of minors would be eliminated.

3. Effect on the Quality of Educational and Other Services to Children and Adults

The quality of education would improve for DCPS, as it would be able to focus more of its attention on academic concerns. Furthermore, a connection between academic attainment and professional development would improve student participation in school and the quality of the work force in the District.

4. Potential for Duplication of Functions

Functions would not be duplicated, but instead reduced and better coordinated.

5. Effect on Reporting Requirement

Reporting requirements would only exist in order to ensure accountability of the different offices and the academic development of the students.

6. Potential for Conflict of Interest

Any conflicts of interest should be eliminated by the accountability structure.

7. Effect on Cost

There would be an additional cost to the District to fund the issuance of work permits. Funding would also have to be provided to continue the School-to-Careers program established by a grant that will not be renewed by the current presidential administration.